

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
	)	
Plaintiff,	)	
v.	)	Civil Action No. 04-4086 JNE/RLE
	)	
INDEPENDENT SCHOOL DISTRICT NO. 482	)	<b>CONSENT DECREE</b>
OF LITTLE FALLS, MN,	)	
	)	
Defendant.	)	
_____	)	

**Introduction**

Plaintiff Equal Employment Opportunity Commission (hereinafter the "Commission") has instituted this action alleging that Defendant Independent School District No. 482 of Little Falls, MN discriminated against certain of its employees because of their age in the implementation and administration of its retirement incentive plans in violation of the Age Discrimination in Employment Act, 29 U.S.C. §621, et seq. (hereinafter "ADEA").

For purposes of settlement and compromise only, the parties have advised the Court that they wish to resolve the instant controversy without the expense, delay, and burden of further litigation, and Defendant Independent School District No. 482 of Little Falls, MN represents that it does not admit the claims of the EEOC's lawsuit by entering into this Consent Decree;

THEREFORE, it is the finding of this Court, made on the pleadings and on the record as a whole and upon agreement of the parties, that: (i) this Court has jurisdiction over the parties to and the subject matter of this action, (ii) the requirements of the ADEA will be carried out by the implementation of this Decree, (iii) this Decree is intended to and does resolve all matters in controversy

in this lawsuit among the parties, and (iv) the terms of this Decree constitute a fair and equitable settlement of all issues in this lawsuit.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

### **I. Injunctive Relief**

1. Defendant shall not implement and/or administer any retirement incentive plan in which the amount of the benefit payable under the plan is reduced because of age or on the basis of an employee's continued employment beyond his or her date of first eligibility for retirement under the applicable retirement plan(s). Nothing herein shall prohibit Defendant from adopting any retirement incentive plan that is not prohibited by the ADEA.

2. Defendant shall not discriminate or retaliate against any person because he or she has opposed any practices alleged in this action as unlawful under the ADEA, has participated in an investigation conducted under the ADEA with respect to this complaint, or has participated in this lawsuit or has benefitted in any way as a result of this Consent Decree.

### **II. Relief for Aggrieved Persons**

3. Within thirty (30) days of the entry of this decree, Defendant shall issue a check to each person listed on Exhibit A attached hereto in the gross amount listed on Exhibit A, less only any applicable deductions for the employee's portion of FICA and applicable federal and state income tax withholdings. The check shall be mailed by certified mail to the person's last known address, which shall be provided by the EEOC within ten days of the entry of this decree. The Defendant shall send a copy of the checks to the EEOC at the time of mailing to the persons listed on Exhibit A.

### **IV. Posting and Policies**

4. Defendant shall post and cause to remain posted the posters required to be displayed in the workplace by EEOC regulation 29 C.F.R. §1601.30 in all facilities owned and operated by Defendant.

5. Defendant shall post and cause to remain posted copies of the notice attached hereto as Exhibit B in locations publicly visible to all employees in all Independent School District No. 482 of Little Falls, MN facilities for a period of one (1) year starting from the date of entry of this Decree.

#### **V. Reporting**

6. Within forty-five (45) days of the entry of this Decree, Defendant shall prepare and submit to the undersigned EEOC attorney a letter indicating that the notice has been posted as required by paragraph 5 above.

7. During the term of this Decree, Defendant will notify the undersigned EEOC attorney if it implements and/or revises any retirement incentive plans applicable to any of Defendant's employees within ten (10) days of the implementation or revision. Defendant shall forward copies of any and all retirement incentive plans which are implemented and/or revised at any time during the term of this Decree along with such notification.

8. During the term of this Decree Defendant shall allow representatives of the Commission to review Defendant's compliance with this Decree by inspecting and photocopying relevant documents and records, interviewing employees and management officials on their premises, and inspecting their premises. Such review of compliance shall be initiated by written notice to the

Defendant's attorney of record at least seven (7) business days in advance of any inspection of a Defendant's documents or premises.

#### **V. Term and Effect of Decree**

9. Independent School District No. 482 of Little Falls, MN represents that Exhibit A is a true and complete list of every person who retired on or after June 1999 and who was subject to a collective bargaining provision that reduced an early retirement incentive based upon the retiree's age. Subject to this representation, this Decree constitutes the full, final and complete resolution of the EEOC's claim that Defendant Independent School District No. 482 of Little Falls, MN violated the ADEA by discriminating against certain of its employees because of their age in the implementation and administration of its retirement incentive plans in violation of the Age Discrimination in Employment Act, 29 U.S.C. §621, et seq. (hereinafter "ADEA").

10. By entering into this Decree the parties do not intend to resolve any charges of discrimination currently pending before the Plaintiff other than charges that created the procedural foundation for the complaint in this case and those of persons listed on Exhibit A.

11. This Decree shall be for a period of five years and can only be extended for good cause shown. During the Decree's term the Court shall retain jurisdiction of this cause for purposes of compliance.

12. Each party shall bear that party's own costs.

DATE:

3-7-05

s/ Joan N. Ericksen

Joan N. Ericksen

United States District Court Judge

BY CONSENT:

FOR DEFENDANT:

FOR PLAINTIFF:

s/James E. Knutson

James Knutson

Knutson, Flynn & Deans, P.A.

1155 Centre Pointe Drive, Suite 10

Mendota Heights, MN 55120

(651) 222-2811

s/Laurie Vasichok

Laurie A. Vasichok (0171438)

Senior Trial Attorney

Equal Employment Opportunity

Commission

330 2nd Avenue South, Suite 430

Minneapolis, MN 55401

(612) 335-4061

EXHIBIT A

	<u>backpay</u>	<u>interest</u>	<u>total</u>
Robert Bertsch	\$43,000.00	\$13,278.42	\$56,278.42

**EXHIBIT B**

(TO BE TYPED ON SCHOOL DISTRICT LETTERHEAD)

**NOTICE TO EMPLOYEES**

This Notice is posted pursuant to a Consent Decree resolving a lawsuit with the Equal Employment Opportunity Commission.

Federal law requires that there be no discrimination against any employee or applicant for employment because of the individual's race, color, religion, sex, national origin or age (40 and over) with respect to hiring, promotion, firing, compensation, or other terms, conditions or privileges of employment.

Independent School District No. 482 of Little Falls, MN will comply with such Federal law in all respects and will not take any action against employees because they have exercised their rights under the law.

Specifically, Independent School District No. 482 of Little Falls, MN will not implement or administer any retirement incentive plan that discriminates against employees on the basis of age in that it reduces benefits based upon age or upon an employee's continued employment beyond his or her date of first eligibility for retirement.

---

SUPERINTENDENT OF SCHOOLS